

# SENATE BILL 280

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7lr1998  
CF 7lr2682

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By: **Senators Guzzone and Middleton**

Introduced and read first time: January 20, 2017

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Nonwoven Disposable Products – Advertising and Labeling**

3 FOR the purpose of prohibiting the manufacturer of a nonwoven disposable product from,  
4 beginning on a certain date, advertising or labeling the nonwoven disposable product  
5 in a certain manner unless the nonwoven disposable product is flushable; requiring  
6 the manufacturer of a nonwoven disposable product to label a nonwoven disposable  
7 product in a certain manner beginning on a certain date; defining certain terms; and  
8 generally relating to nonwoven disposable products.

9 BY adding to  
10 Article – Environment  
11 Section 9–258  
12 Annotated Code of Maryland  
13 (2014 Replacement Volume and 2016 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Environment**

17 **9–258.**

18 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
19 **INDICATED.**

20 **(2) “ADVERTISE” MEANS TO MAKE A REPRESENTATION BY**  
21 **STATEMENT, WORD, DESIGN, DEVICE, OR SOUND IN:**

22 **(I) PRINT;**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(II) BROADCAST; OR

(III) ELECTRONIC MEDIA.

(3) "FLUSHABLE" MEANS:

(I) A NONWOVEN PRODUCT THAT:

1. DISPERSES IN THE LOW-FORCE CONDITIONS OF A SEWERAGE SYSTEM A SHORT PERIOD OF TIME AFTER FLUSHING;

2. IS NOT BUOYANT; AND

3. DOES NOT CONTAIN PLASTIC OR ANY OTHER MATERIAL THAT DOES NOT READILY DEGRADE IN A RANGE OF NATURAL ENVIRONMENTS; OR

(II) IF AN INTERNATIONAL DEFINITION FOR "FLUSHABLE" IS ADOPTED AND THE DEPARTMENT ADOPTS THE INTERNATIONAL DEFINITION BY REGULATION, THE DEFINITION ADOPTED BY THE DEPARTMENT.

(4) "LABEL" MEANS TO MAKE A REPRESENTATION BY STATEMENT, WORD, PICTURE, DESIGN, OR EMBLEM ON THE PACKAGING OF A NONWOVEN DISPOSABLE PRODUCT.

(5) (I) "NONWOVEN DISPOSABLE PRODUCT" MEANS A PRODUCT MADE FROM LONG FIBERS BONDED TOGETHER BY CHEMICAL, MECHANICAL, HEAT, OR SOLVENT TREATMENT THAT IS DESIGNED, MARKETED, OR COMMONLY USED FOR PERSONAL HYGIENE PURPOSES.

(II) "NONWOVEN DISPOSABLE PRODUCT" INCLUDES:

1. MOIST TOILET TISSUE; AND

2. MOIST TOILET CLOTH.

(B) (1) BEGINNING JANUARY 1, 2018, A MANUFACTURER OF A NONWOVEN DISPOSABLE PRODUCT FOR SALE IN THE STATE MAY NOT ADVERTISE OR LABEL THE NONWOVEN DISPOSABLE PRODUCT AS SAFE TO FLUSH, SAFE FOR DISPOSAL IN SEWERAGE SYSTEMS, OR SAFE FOR DISPOSAL IN ON-SITE SEWAGE DISPOSAL SYSTEMS UNLESS THE NONWOVEN DISPOSABLE PRODUCT IS FLUSHABLE.

1           (2) BEGINNING JANUARY 1, 2018, A MANUFACTURER OF A  
2 NONWOVEN DISPOSABLE PRODUCT FOR SALE IN THE STATE SHALL CLEARLY AND  
3 CONSPICUOUSLY LABEL A NONWOVEN DISPOSABLE PRODUCT THAT IS NOT  
4 FLUSHABLE IN A MANNER THAT ALERTS THE PURCHASER THAT THE NONWOVEN  
5 DISPOSABLE PRODUCT SHOULD NOT BE FLUSHED.

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2017.

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 280 (Senators Guzzone and Middleton)  
Education, Health, and Environmental Affairs

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**Environment - Nonwoven Disposable Products - Advertising and Labeling**

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This bill prohibits, beginning January 1, 2018, a manufacturer of a nonwoven disposable product from advertising or labeling the product as (1) safe to flush; (2) safe for disposal in sewerage systems; or (3) safe for disposal in on-site sewage disposal (septic) systems unless the nonwoven disposable product meets the bill's definition of "flushable." Also beginning January 1, 2018, a manufacturer of a nonwoven disposable product that is *not flushable* must clearly and conspicuously label such a product in a manner that alerts the purchaser that the product should not be flushed.

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**Fiscal Summary**

**State Effect:** The Maryland Department of the Environment (MDE) can handle enforcement with existing budgeted resources. To the extent that the bill's prohibition and labeling requirements result in less damage to State-owned/operated sewerage or septic systems, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown. The application of existing penalties is not anticipated to materially affect State operations or finances.

**Local Effect:** Local governments are not directly affected. However, to the extent that the bill's prohibition and labeling requirements result in less damage to locally owned/operated sewerage or septic systems, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown. The application of existing penalties is not anticipated to materially affect local operations or finances.

**Small Business Effect:** Minimal, as discussed below.

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## Analysis

**Bill Summary:** A “nonwoven disposal product” is a product made from long fibers bonded together by chemical, mechanical, heat, or solvent treatment that is designed, marketed, or commonly used for personal hygiene purposes and includes moist toilet tissue and moist toilet cloths.

“Flushable” means a nonwoven disposable product that (1) disperses in the low-force conditions of a sewerage system a short period of time after flushing; (2) is not buoyant; and (3) does not contain plastic or any other material that does not readily degrade in a range of natural environments. However, if an international definition for “flushable” is adopted and MDE adopts that definition, then the international definition replaces the definition established by the bill.

A violator is subject to existing enforcement provisions, including civil penalties of up to \$10,000 per violation not exceeding \$100,000 total; each day a violation occurs is a separate violation. Various criminal penalties also apply.

**Current Law/Background:** Current law is silent with regard to what items are allowed to be flushed into sewerage systems and septic systems. Similarly, there is no universal definition of “flushable” for moist toilet tissue and moist toilet cloths. However, there is growing concern related to flushing these products into public sewer systems and septic systems. In January 2015, the National Conference of State Legislators (NCSL) reported that Canadian wastewater treatment plants spend about \$250 million annually to address issues stemming from flushing such wipes. In London, England, a 15-ton, 66-foot-long mass of wipes caused major sewage backups in Whitehall in April 2015.

According to NCSL, in 2014, the District of Columbia spent \$1 million on heavy-duty grinders to destroy wipes in the sewer system. In response, the District of Columbia Water and Sewer Authority, in collaboration with the Metropolitan Washington Council of Governments, developed an educational program entitled “Protect your Pipes,” which informs the public about the dangers of disposing certain products, including moist wipes, into the sewer system. In addition, the District of Columbia passed a law similar to this bill in 2016; that legislation takes effect March 17, 2017.

At the federal level, the Federal Trade Commission (FTC) has been working to prohibit wipe manufactures from advertising their products as flushable unless they are proven to be flushable. In October 2015, FTC approved a final consent order with Nice-Pak Products, Inc., a manufacturer of wet wipes, prohibiting Nice-Pak Products from advertising moist toilet tissue and cloths as flushable or safe for sewer or septic systems unless it can substantiate those claims.

MDE advises that some publicly operated wastewater treatment plants in Maryland have observed that disposable products such as wet wipes have caused an impact on their operations. MDE also notes that these products have an impact on septic systems, including septic systems with advanced nitrogen removal technology.

**Small Business Effect:** Although the exact number of affected manufacturers in the State is unknown, census data indicates that in calendar 2012, there were three nonwoven fabric mills in the State that may be considered small businesses. Thus, it is likely that the bill only affects a small number of manufacturers. Further, the bill's ban and labeling/advertising requirements do not take effect until January 1, 2018, giving affected manufacturers sufficient time to use existing inventory and implement the required changes. Thus, the bill is not anticipated to have a significant impact on affected manufacturers.

To the extent that the bill's prohibition and labeling requirements result in less damage to sewerage or septic systems that are owned or operated by small businesses, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** District of Columbia Water and Sewer Authority; Maryland Department of the Environment; Maryland Environmental Service; Maryland Municipal League; National Conference of State Legislatures; U.S. Census Bureau; U.S. Federal Trade Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2017  
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